United Nations S/2003/274

Security Council

Distr.: General
6 March 2003

Original: English

Letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 November 2002 (S/2002/1287).

The Counter-Terrorism Committee has received the attached third report from Denmark submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-27791 (E) 140303

Annex to the letter dated 3 March 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

Letter dated 14 February 2003 from the Permanent Representative of Denmark to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In reply to your letter of 15 November 2002 requesting a further report on the Danish implementation of resolution 1373 (2001), I take pleasure in forwarding the said report for circulation as a document of the Security Council (see enclosure).

(*Signed*) Ellen Margrethe **Løj**
Ambassador
Permanent Representative of Denmark to the United Nations

Enclosure

Supplementary report of Denmark of 14 February 2003, submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001)

DATE OF SUBMISSION	**14 February 2003**
POINT OF CONTACT	Ministry of Foreign Affairs, JT.F 2, Asiatisk Plads DK-1448 Copenhagen K Denmark Tel: +45 33 92 00 00 Fax +45 32 54 05 33 Email: um@um.dk

Introduction

On 27 December 2001 and 8 July 2002 Denmark has submitted reports pursuant to paragraph 6 of Security Council Resolution 1373 (2001) to the Committee established by the Security Council – the Counter Terrorism Committee. In a letter dated 15 November 2002, the Counter Terrorism Committee has posed a number of further questions to the Danish Government regarding Denmark's fulfilment of UN Security Council Resolution 1373 (2001).

1. Implementation measures

Question 1.2

From the supplementary report it appears that Denmark has no provisions or procedures explicitly dealing with a monitoring mechanism for the collection and use of funds by non-profit organizations (e.g. religious, charitable and cultural organizations) so as to prevent the funds from being diverted to terrorist purposes (as distinct from the provisions of a more general application, mentioned in the report). Since an appropriate monitoring mechanism is needed for preventing and suppressing the financing of terrorism, could Denmark please comment on what action it proposes to take in this regard.

The public collection of funds in Denmark is regulated in the Public Collections Act. The Act prescribes a monitoring mechanism for the public collection of funds and the use of such funds. Furthermore, the Ministry of Justice has issued an Order regarding Public Collections. The order contains provisions regarding the procedure for public collections and the control of the use of collected funds.

The definition of "public collection" is to be found in section 1 (2) of the Public Collections Act. Thus, a collection is public if the request for contribution is addressed to persons who are not personally acquainted with the initiators of the collection, or persons who do not have a special connection with the persons or the institutions for whose benefit the collection is initiated.

According to section 1 (1) of the Public Collections Act the police must be notified before a public collection of funds is initiated.

Section 2 of the order contains provisions, which specify the requirements for the form and the content of the notification to the police. The notification to the police must contain information about the persons or the institutions etc. responsible for the collection. Furthermore, the notification must state the period of time during which the collection will take

place as well as the area where the collection will take place. The notification must also include information about the manner in which the collection will be performed and information about the purpose for which the collected funds will be used.

It should be noted that the requirement of notif :ation to the police does not imply issue of an authorization or prior approval of the purpose of the collection. Thus, it is left to the population to decide whether a certain purpose should be supported.

Public collections can only be arranged in order to support a legal purpose. The notification procedure ensures that the police receives the necessary information about the purpose of the collection and thus will be able to assess the legality of the purpose.

Collected funds can only be used for purposes different from those stated in the notification to the police by permission from the Ministry of Justice, cf. section 4 (2) of the order.

Proper accounts of all profits and expenses in relation to the collection must be kept, cf. section 5 (1) of the order. The accounts must be revised by a state-authorized public accountant or by a registered accountant. The administrative expenses and the use of the profits must be specified in the accounts. The accountant must control whether the necessary documentation is provided.

Furthermore, the accounts must be published within 6 months after the conclusion of the collection in one or several of the most widespread newspapers in the area, where the collection has taken place. If the collected amount does not exceed 10.000 DKK it is sufficient to publish an announcement stating that the accounts are available to the public for a period of at least 14 days at a certain place, cf. section 6 (1) of the order.

Additionally, the order prescribes that a copy of the accounts and a notice stating when and where the publication of the accounts will take place must be sent to the police, cf. section 7.

A breach of the provisions in the act and the order is punishable.

The provisions concerning financing of terrorism in the Criminal Code and in the Money Laundering Act are of course also applicable.

Question 1.3

The CTC would appreciate receiving a progress report on the revision of the criminal law regimes of Greenland and the Faroe Islands so as to ensure these contribute to compliance with the Resolution in those territories.

As stated in Denmark's previous reports to the CTC, the amendments of the Criminal Code do not apply to the Faroe Islands, but the amendments may enter into force by a Royal decree. Before the coming into force of the amendments, the Faroe Home Rule must have the amendments presented for an opinion. The Ministry of Justice and representatives from the Faroe Home Rule are currently discussing how to ensure full and effective compliance with Resolution 1373 (2001).

Concerning Greenland, the Danish Government notes that the existing special Criminal Code contains provisions concerning acts committed with a terrorist purpose. The Commission on Greenland's Judicial System has been charged with the task to carry out a fundamental revision of the judicial system in Greenland and to draft a revised version of the special Criminal Code and the special Administration of Justice Act applying in Greenland. The Commission has now held its last meeting, and the report is expected to be submitted in 2003. When the revised special Criminal Code is available, the Ministry of Justice will examine it in order to ensure that all requirements in Resolution 1373 (2001) are fully met.

Question 1.4

Effective implementation of sub-paragraphs 2 (d) and (e) of the Resolution requires, among other things, the criminalisation of the use of a State's territory for the purpose of financing, planning and facilitating of terrorist acts aimed against other States or their citizens, even if no related terrorist acts have not (yet) been committed or attempted. Please explain whether the proposed provisions on terrorism will meet this requirement. If not, how does Denmark intend to meet this requirement?

The new provisions in the Criminal Code on terrorism and financing of terrorism are not limited to terrorist attacks against the Danish State and authorities. Attacks against foreign states, authorities and/or citizens are also criminalized.

Pursuant to section 6 (1) of the Criminal Code acts committed within the territory of the Danish State is subject to Danish criminal jurisdiction. It is not a requirement that every part of the criminal act is committed in Denmark. Therefore, both attempt to commit terrorist acts and preparation of terrorist acts taking place on Danish territory is punishable in Denmark, even though the act is carried out in or directed against a foreign state.

It should also be noted that the Danish Criminal Code contains very wide-ranging provisions on attempt and complicity.

Section 21 (1) on attempt reads as follows: "Acts which aim at the promotion or accomplishment of an offence shall be punished as an attempt when the offence is not completed."

Section 23 (complicity):

"(1) The penalty in respect of an offence shall apply to any person who has contributed to the execution of the wrongful act by instigation, advice or action. The punishment may be reduced for any person who has only intended to give assistance of minor importance, or to strengthen

an intent already resolved and if the offence has not been completed or an intended assistance has failed.

(2) The punishment may similarly be reduced for a person who has contributed to the breach of a duty in a special relationship in which he himself had no part.

(3) Unless otherwise provided, the penalty for participation in offences that are not punishable more severely than with imprisonment for any term not exceeding 4 months may be remitted where the accomplice only intended to give assistance of minor importance or to strengthen an intention already existing, or where his complicity is due to negligence."

In the opinion of the Danish Government the new provisions on terrorism along with the provisions on jurisdiction, attempt and complicity fully meet the requirements of the resolution concerning the criminalisation of terrorism.

Question 1.5

The supplementary report does not make clear whether Denmark recognizes claims of political motivation as grounds for refusing extradition of terrorists to States that are not a party to the European Convention for the Suppression of Terrorism, the Convention for the Suppression of Bombings or the Convention for the Suppression of the Financing of Terrorism. Could Denmark please explain how, in dealing with requests for extradition of terrorists by such States, it would fully meet the requirement of the sub-paragraph 3 (g).

Section 5 (1) of the Extradition Act prohibits extradition for a political offence. Subsection 3 deviates from this principal rule. Subsection 3 states that Subsection 1 (the refusal of extradition for political offences) does not apply, when the count – for which extradition is requested – is covered by the European Convention for the Suppression of Terrorism, the International Convention for the Suppression of the Financing of Terrorism or the International Convention for the Suppression of Terrorist Bombings. Subsection 3 of the

Extradition Act is based on the principle of reciprocity, which is recognized in international law. Thus, Subsection 3 of the Extradition Act can only be applied if the requesting State is party to the Convention, which covers the count. If the requesting State has not ratified the Convention in question, a request for extradition for a political offence must be refused in accordance with Section 5 (1).

The term "political offence" is subject to a strict objective interpretation. Thus, a claim of political motivation is not a ground for refusing requests for extradition. As stated previously, Denmark has not within the last five years refused a request for extradition based on the political offence exception.

The Danish Government is expected to table a Bill in February 2003 concerning further amendments to the Extradition Act with a view to implementing the EU Framework Decision on the European arrest warrant and the surrender procedures between Member States. If the Danish Parliament adopts the Bill a request for extradition to another EU Member State cannot be refused with reference to the prohibition against extradition for political offences.

2. Assistance and guidance

Question 2.1

The CTC is eager to facilitate the provision of assistance and advice in connection with the implementation of the Resolution. It encourages Denmark to inform the CTC of any areas in which assistance or advice might be of benefit in taking forward the implementation of the Resolution in Denmark, or of any areas in which Denmark might be in a position to offer assistance or advice to other States on the implementation of the Resolution.

The Government of Denmark appreciates the efforts by the CTC in facilitating coordination of assistance. Denmark does not need assistance in implementing the Resolution. The Danish Government is right now in the process of reviewing how development assistance can combat

some of the underlying causes of extreme fundamentalism and terrorism, and hopefully this work will provide new instruments. Furthermore, Denmark will be able to provide some technical assistance to other States in drafting legislation and information sharing concerning practice, cf. below.

Although there is no mention in either of the reports of assistance that Denmark might be able to provide to other States, the CTC would be grateful for an indication of any assistance or advice that Denmark is in a position to provide.

Denmark is prepared to provide assistance to other States in the drafting of anti-terrorism legislation and in information sharing concerning practice in the areas outlined below. Denmark would appreciate if this information were made available at the CTC web site.

General contact point:

Ministry of Foreign Affairs, JT.F

2, Asiatisk Plads

DK-1448 Copenhagen K

Denmark

Tel: +45 33 92 00 00

Fax +45 32 54 05 33

Email: JT.F@um.dk

Drafting of counter-terrorism legislation:

The Ministry of Justice

10, Slotsholmsgade

DK-1216 Copenhagen K

Denmark

Tel: +45 33 92 33 40

Fax: +45 33 93 35 10

Email: jm@jm.dk

Contact point: Acting Head of Division Anne Kristine Axelsson

The Criminal Law Division

Financial law and practice:

The Public Prosecutor for Serious Economic Crime

5, Anker Heegaards Gade 5th floor

DK-1572 Copenhagen V

Denmark

Tel: +45 33 14 88 88

Fax: +45 33 43 01 19

E-mail: econ.crime@post.tele.dk

Contact point: Deputy Public Prosecutor Ulla Høg

Ministry for Economic and Business Affairs

National Agency for Enterprise and Housing

17, Langelinie Allé

DK-2100 Copenhagen C

Tel: +45 35 46 60 00

Fax: +45 35 46 60 01

Email: ebst@ebst.dk

Contact point: Executive officer Dorthe G. Robdrup

Email: dr@ebst.dk, tel: +45 35 46 62 81, fax: +45 35 46 62 03

Customs law and practice:

Ministry of Taxation

Central customs- and tax administration

Customs control office

123, Østbanegade

DK-2100 Copenhagen Ø

Tel. +45 3529 73 00

Fax: +45 35 43 47 20

Contact point: Mette Krog

Tel: +45 35 29 24 22

Fax: +45 35 29 29 17

Email: mvk@tu22.ccta.dk

Immigration law and practice:

The Ministry of Refugees, Immigration and Integration Affairs

Holbergsgade 6

DK-1057 Copenhagen K

Denmark

Tel.: +45 33 92 33 80

Fax: +45 33 11 12 39

E-mail: inm@inm.dk

Contact point: Head of Department Dorit Hørlyck

International Department

Extradition law and practice:

The Ministry of Justice

Slotsholmsgade 10

DK-1216 Copenhagen K

Denmark

Tel.: +45 33 92 33 40

Fax: +45 33 93 35 10

E-mail: jm@jm.dk

Contact point: Head of Division Jakob Scharf

International Division

Police and law enforcement work:

The Ministry of Justice

Slotsholmsgade 10

DK-1216 Copenhagen K

Denmark

Tel.: +45 33 92 33 40

Fax: +45 33 93 35 10

E-mail: jm@jm.dk

Contact point: Head of Division Lennart Lindblom

Division for the police

Illegal arms-trafficking:

The Ministry of Justice

Slotsholmsgade 10

DK-1216 Copenhagen K

Denmark

Tel.: +45 33 92 33 40

Fax: +45 33 93 35 10

E-mail: jm@jm.dk

Contact point: Acting Head of Division Ida Skouvig

The Road Traffic Division